

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2007-0472-EAQ-E **TCEQ ID:** RN105161939 **CASE NO.:** 33130**RESPONDENT NAME:** Bulverde Area Rural Library District

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input checked="" type="checkbox"/> EDWARDS AQUIFER
<p>SITE WHERE VIOLATION(S) OCCURRED: Bulverde Library, on Bulverde Crossing Road, approximately 2,750 feet southeast of the Old Boerne Road and Bulverde Crossing Road intersection, Bulverde, Comal County</p> <p>TYPE OF OPERATION: Library construction site</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 3, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Deana Holland, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2504; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Scott Watson, President of the Board, Bulverde Area Rural Library District, 20475 State Highway 46 West, Suite 340, Spring Branch, Texas 78070 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 9, 2007</p> <p>Date of NOE Relating to this Case: March 1, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation. One violation was documented.</p> <p>WATER</p> <p>Failure to obtain approval of modifications to an Edwards Aquifer Contributing Zone Plan prior to beginning a regulated activity over the Edwards Aquifer Contributing Zone. Specifically, development for Drainage Area E, Lot 6 was not included in the previously approved plan. [30 TEX. ADMIN. CODE § 213.23(a)(1)(A) and (B)].</p>	<p>Total Assessed: \$1,875</p> <p>Total Deferred: \$375 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,500</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on January 3, 2007, the Respondent submitted a modification of a previously approved Contributing Zone Plan and was approved by the Executive Director on March 1, 2007.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

TCEQ

DATES	Assigned	5-Mar-2007	Screening	2-Apr-2007	EPA Due	
	PCW	2-Apr-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	Bulverde Area Rural Library District		
Reg. Ent. Ref. No.	RN105161939		
Facility/Site Region	13-San Antonio	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	33130	No. of Violations	1	
Docket No.	2007-0472-EAQ-E	Order Type	1660	
Media Program(s)	Edwards Aquifer	Enf. Coordinator	Ruben Soto	
Multi-Media		EC's Team	EnforcementTeam 1	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$2,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0% Enhancement **Subtotals 2, 3, & 7** \$0

Notes There are no Notices of Violation, orders, or any other enforcement actions within the last five years.

Culpability No 0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 25% Reduction **Subtotal 5** \$625

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes The Respondent submitted a modification of a previously approved Contributing Zone Plan ("CZP") on January 3, 2007 and was approved by the Executive Director on March 1, 2007.

Total EB Amounts \$26 **0% Enhancement*** **Subtotal 6** \$0
Approx. Cost of Compliance \$5,000 ***Capped at the Total EB \$ Amount**

SUM OF SUBTOTALS 1-7

Final Subtotal \$1,875

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Adjustment \$0

Notes

Final Penalty Amount \$1,875

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$1,875

DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

20% Reduction **Adjustment** -\$375

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$1,500

Screening Date 2-Apr-2007

Docket No. 2007-0472-EAQ-E

PCW

Respondent Bulverde Area Rural Library District

Policy Revision 2 (September 2002)

Case ID No. 33130

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN105161939

Media [Statute] Edwards Aquifer

Enf. Coordinator Ruben Soto

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments, or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

There are no Notices of Violation, orders, or any other enforcement actions within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 2-Apr-2007

Docket No. 2007-0472-EAQ-E

PCW

Respondent Bulverde Area Rural Library District

Policy Revision 2 (September 2002)

Case ID No. 33130

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN105161939

Media [Statute] Edwards Aquifer

Enf. Coordinator Ruben Soto

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 213.23(a)(1)(A) and (B)

Violation Description

Failed to obtain approval of modifications to an Edwards Aquifer Contributing Zone Plan prior to beginning a regulated activity over the Edwards Aquifer Contributing Zone, as documented during an investigation conducted on February 9, 2007. Specifically, development for Drainage Area E, Lot 6 was not included in the previously approved plan.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

20 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One monthly event is recommended from the date of the investigation (February 9, 2007) to the date of compliance (March 1, 2007).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$26

Violation Final Penalty Total \$1,875

This violation Final Assessed Penalty (adjusted for limits) \$1,875

Economic Benefit Worksheet

Respondent Bulverde Area Rural Library District
Case ID No. 33130
Reg. Ent. Reference No. RN105161939
Media Edwards Aquifer
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$5,000	22-Jan-2007	1-Mar-2007	0.1	\$26	n/a	\$26

Notes for DELAYED costs

Cost reflects the amount to prepare a modification of a previously approved CZP. The date required is the date when construction activity commenced without authorization and the final date is when the Executive Director approved the plan.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$26

Compliance History

Customer/Respondent/Owner-Operator:	CN603152364	BULVERDE AREA RURAL LIBRARY DISTRICT	Classification:	Rating:
Regulated Entity:	RN105161939	BULVERDE LIBRARY	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	EDWARDS AQUIFER	REGISTRATION	13-07010301	
Location:	BULVERDE CROSSING ROAD, APPROXIMATELY 2,750 FEET SOUTHEAST OF OLD BOERNE ROAD AND BULVERDE CROSSING ROAD INTERSECTION, BULVERDE, COMAL COUNTY			Rating Date: September 01 06 Repeat Violator: NO
TCEQ Region:	REGION 13 - SAN ANTONIO			
Date Compliance History Prepared:	April 04, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 04, 2002 to April 04, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
	Name: Ruben Soto		Phone: 512 239-4571	

Site Compliance History Components

- | | |
|--|--------------------------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | Bulverde Area Rural Library District |
| 4. If Yes, who was/were the prior owner(s)? | Bulverde/46 Partners, Ltd. |
| 5. When did the change(s) in ownership occur? | 10/27/2006 |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.
N/A

B. Any criminal convictions of the state of Texas and the federal government.
N/A

C. Chronic excessive emissions events.
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 03/02/2007 (536208)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BULVERDE AREA RURAL LIBRARY
DISTRICT
RN105161939**

§
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§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0472-EAQ-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Bulverde Area Rural Library District ("Bulverde") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Bulverde appear before the Commission and together stipulate that:

1. Bulverde owns and operates a library construction site located at Bulverde Crossing Road, approximately 2,750 feet southeast of the Old Boerne Road and Bulverde Crossing Road intersection in Bulverde, Comal County, Texas (the "Site").
2. Bulverde has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Bulverde agree that the Commission has jurisdiction to enter this Agreed Order, and that Bulverde is subject to the Commission's jurisdiction.
4. Bulverde received notice of the violations alleged in Section II ("Allegations") on or about March 6, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Bulverde of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of One Thousand Eight Hundred Seventy-Five Dollars (\$1,875) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Bulverde has paid One Thousand Five Hundred Dollars (\$1,500) of the administrative penalty and Three Hundred Seventy-Five Dollars (\$375) is deferred contingent upon Bulverde's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Bulverde fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Bulverde to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Bulverde have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on January 3, 2007, Bulverde submitted a modification of a previously approved Contributing Zone Plan and was approved by the Executive Director on March 1, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Bulverde has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, Bulverde is alleged to have failed to obtain approval of modifications to an Edwards Aquifer Contributing Zone Plan prior to beginning a regulated activity over the Edwards Aquifer Contributing Zone, in violation of 30 TEX. ADMIN. CODE § 213.23(a)(1)(A) and (B), as documented during an investigation conducted on February 9, 2007. Specifically, development for Drainage Area E, Lot 6 was not included in the previously approved plan.

III. DENIALS

Bulverde generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS


1. It is, therefore, ordered by the TCEQ that Bulverde pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Bulverde's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Bulverde Area Rural Library District, Docket No. 2007-0472-EAQ-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon Bulverde. Bulverde is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Bulverde in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Bulverde, or three days after the date on which the Commission mails notice of the Order to Bulverde, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director


8/29/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

6-11-07
Date

SCOTT R. WATSON
Name (Printed or typed)
Authorized Representative of
Bulverde Area Rural Library District

PRESIDENT
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

